

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

SERTA SIMMONS BEDDING, LLC and
DREAMWELL, LTD.

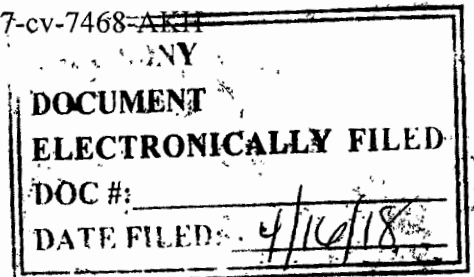
Plaintiffs,

v.

CASPER SLEEP INC.

Defendant.

Civil Action No. 17-cv-7468-AKH



~~RECEIVED~~ AMENDED CIVIL CASE MANAGEMENT PLAN

On January 17, 2018, the Court adopted a Case Management Plan following consultation with counsel for the parties. (D.I. 75). As a result of certain developments, including Plaintiffs' filing on February 22, 2018 of a motion for reconsideration of the Court's January 25, 2018 claim construction order, and a stay of discovery from March 8, 2018 through March 23, 2018, the Original Civil Case Management Plan is hereby superseded by the Amended Case Management Plan set forth herein. Accordingly, the Court hereby ORDERS the following:

This amended plan is also a scheduling order pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure.

A. The case is to be tried to a jury.

B. Non-Expert Discovery:

The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. All non-expert discovery is to be completed by **Thursday, May 3, 2018**, which date shall not be adjourned except upon a showing of good cause and further order of the Court. Interim deadlines for specific discovery activities may be extended by the parties on consent without application to the Court, provided the parties are certain that they can still meet the discovery completion date ordered by the Court.

C. Motions, Settlement, Second Pre-Trial Conference, and Expert Discovery:

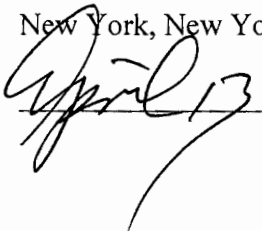
1. All expert discovery is to be completed by **Friday, June 8, 2018**. Interim deadlines for specific discovery activities may be extended by the parties on consent without application to the Court, provided the parties are certain that they can still meet the discovery completion date ordered by the Court.
 - a. Parties shall serve expert reports on issues for which the party has the burden no later than **Friday, May 11, 2018**. Rebuttal expert reports on issues for which the party does not have the burden are to be served no later than **Friday, June 1, 2018**.
 2. The last day for filing dispositive motions shall be **Friday, May 18, 2018**. For any motions filed on the deadline, opposition briefs shall be due on **Tuesday, June 12, 2018** and replies shall be due on **Tuesday, June 19, 2018**. For any dispositive motions filed prior to the May 18, 2018 deadline, the Federal Rules shall control the allotted time designated for filing opposition and reply briefs.
- D. Any request for relief from any date provided in this Case Management Plan shall conform to the Court's Individual Rules, and include an order, showing consents and disagreements of all counsel, setting out all dates that are likely to be affected by the granting of the relief requested, and proposed modified dates. Unless and until the Court approves the proposed order, the dates provided in this Plan shall be binding.
- E. A final pre-trial conference will be held on **Tuesday, July 31, 2018 at 4:30pm**. The parties, three days before said meeting, shall submit their pre-trial order, conforming to the Court's Individual Rules and, at the conference, deliver their exhibit books containing all exhibits the parties actually intend to offer at the trial.
- F. Pre-Trial Motions:
- Applications for adjournments and for discovery or procedural rulings will reflect or contain the positions of all parties, and otherwise conform to my Individual Rule I (D). Unless the Court rules otherwise, motions shall not modify or delay the conduct of discovery or the schedules provided in this Case Management Plan.

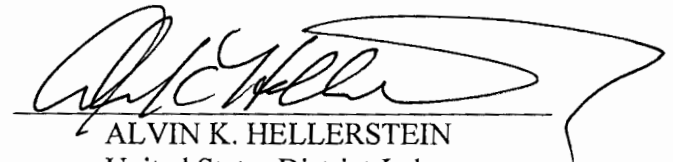
1. To the extent any objection to expert testimony is made pursuant to the principles announced in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), as incorporated in Federal Rule of Evidence 702, it shall be made by motion no later than **Friday, June 15, 2018**. For any motions filed on the deadline, opposition briefs shall be due on **Friday, June 29, 2018** and replies shall be due on **Tuesday, July 10, 2018**. For any motion objecting to expert testimony filed prior to the June 15, 2018 deadline, the Federal Rules shall control the allotted time designated for filing opposition and reply briefs.
 2. The deadline for filing motions *in limine* shall be **Monday, July 2, 2018**. Each side is limited to thirty (30) pages of briefing to address motions in *limine* with the same number of pages for responsive briefing. Responsive briefs shall be filed by **Monday, July 16, 2018** and reply briefs limited to fifteen (15) pages shall be filed by **Monday, July 23, 2018**.
- G. Trial begins **Monday, August 6, 2018 at 10am**.

SO ORDERED.

DATED:

New York, New York

 April 13, 2018


ALVIN K. HELLERSTEIN
United States District Judge